

HOUSE BILL 1778
By Patton

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 34, relative to the Amusement Operator Safety and Liability Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, is amended by adding Sections 2 through 8 of this act as a new part thereto.

SECTION 2. This act shall be known and may be cited as the "Amusement Operator Safety and Liability Act".

SECTION 3. As used in this act unless the context otherwise requires:

(1) "Amusement attraction" means an amusement ride exclusively under the control of an amusement operator to give for a fee amusement, excitement, pleasure or thrills to persons who move around, over or through the structure;

(2) "Amusement device" means an amusement structure in which for a fee one (1) or more of the control elements are exercised by the customer to give amusement, excitement, pleasure or thrills to persons who move around, over or through the structure; and

(3) "Amusement operator" means any person, corporation, organization or business entity which provides for a fee access to and use of an amusement attraction or an amusement device.

SECTION 4. (a) Notwithstanding any provision of law to the contrary, any person, corporation, organization or business entity which provides for a fee access to and use of an

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amusement device shall be liable for injuries sustained by persons using such amusement device only if such injuries were proximately caused by the gross negligence or willful or wanton conduct of the person, corporation, organization or business entity providing use of such amusement device for a fee.

(b) This section applies to operators of amusement devices who provide written or oral instructions and warnings to persons using such amusement devices. Such instructions and warnings shall provide sufficient information to persons using the amusement device to understand the means to control acceleration, speed, braking, direction of travel and/or turning movements which are under the control and responsibility of persons using such amusement devices.

(c) This section applies to injured persons who have attained eighteen (18) years of age and who have acted recklessly or who have abused or misused such amusement devices and such actions are the proximate cause of such persons' injuries or the injuries of others.

SECTION 5. Notwithstanding any provision of law to the contrary, any person, corporation, organization or business entity which provides for a fee access to and use of an amusement attraction shall be liable for injuries sustained by persons using such amusement attraction only if such injuries were proximately caused by the reckless or negligent operation of such amusement attraction by the person, corporation, organization or business entity providing use of such amusement attraction for a fee.

SECTION 6. Any person, corporation, organization or business entity which provides for a fee access to and use of an amusement attraction or an amusement device shall provide to the commissioner of labor proof of insurance against liability for injury to an individual that arises out of the use of such amusement attraction or an amusement device in an amount of at least one million dollars (\$1,000,000) per incident. Failure to maintain such insurance shall make the operator strictly liable for all injuries arising from the use of such amusement attraction or amusement device.

SECTION 7. Amusement operators shall complete incident reports of all accidents involving injury to persons using an amusement attraction or amusement device. Such reports shall contain a description of the accident, a listing of all apparent injuries, names and addresses of witnesses to the incident, and any actions taken in response to the injury. Amusement operators shall maintain such incident reports for at least three (3) years.

SECTION 8. (a) The right to compensation shall be barred unless persons injured by use of an amusement attraction or an amusement device give notice to the amusement operator at the time of the accident. Such persons shall provide all information necessary for the amusement operator to complete the incident reports required by Section 7 of this act.

(b) The provisions of this section are in addition to any other requirements which may be required by law.

SECTION 9. This act shall take effect January 1, 1998, the public welfare requiring it.

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